

H.B. No. 3 on May 28, 2007: Yeas 142, Nays 2, 2 present, not voting; passed by the Senate, with amendments, on May 23, 2007: Yeas 30, Nays 0; at the request of the House, the Senate appointed a conference committee to consider the differences between the two houses; the Senate adopted the conference committee report on H.B. No. 3 on May 28, 2007: Yeas 30, Nays 0.

Approved June 15, 2007.

Effective September 1, 2007, except as otherwise provided by this Act.

## CHAPTER 1352

### H.B. No. 4

#### AN ACT

relating to water conservation.

*Be it enacted by the Legislature of the State of Texas:*

SECTION 1. Section 1.003, Water Code, is amended to read as follows:

Sec. 1.003. PUBLIC POLICY. It is the public policy of the state to provide for the conservation and development of the state's natural resources, including:

(1) the control, storage, preservation, and distribution of the state's storm and floodwaters and the waters of its rivers and streams for irrigation, power, and other useful purposes;

(2) the reclamation and irrigation of the state's arid, semiarid, and other land needing irrigation;

(3) the reclamation and drainage of the state's overflowed land and other land needing drainage;

(4) the conservation and development of its forest, water, and hydroelectric power;

(5) the navigation of the state's inland and coastal waters; ~~and~~

(6) the maintenance of a proper ecological environment of the bays and estuaries of Texas and the health of related living marine resources; *and*

(7) *the voluntary stewardship of public and private lands to benefit waters of the state.*

SECTION 2. Subchapter A, Chapter 1, Water Code, is amended by adding Section 1.004 to read as follows:

*Sec. 1.004. FINDINGS AND POLICY REGARDING LAND STEWARDSHIP. (a) The legislature finds that voluntary land stewardship enhances the efficiency and effectiveness of this state's watersheds by helping to increase surface water and groundwater supplies, resulting in a benefit to the natural resources of this state and to the general public. It is therefore the policy of this state to encourage voluntary land stewardship as a significant water management tool.*

*(b) "Land stewardship," as used in this code, is the voluntary practice of managing land to conserve or enhance suitable landscapes and the ecosystem values of the land. Land stewardship includes land and habitat management, wildlife conservation, and watershed protection. Land stewardship practices include runoff reduction, prescribed burning, managed grazing, brush management, erosion management, reseeding with native plant species, riparian management and restoration, and spring and creek-bank protection, all of which benefit the water resources of this state.*

SECTION 3. Subtitle A, Title 2, Water Code, is amended by adding Chapter 10 to read as follows:

### CHAPTER 10. WATER CONSERVATION ADVISORY COUNCIL

Sec. 10.001. DEFINITIONS. *In this chapter:*

(1) "Best management practices" has the meaning assigned by Section 11.002.

(2) "Board" means the Texas Water Development Board.

(3) "Commission" means the Texas Commission on Environmental Quality.

(4) "Council" means the Water Conservation Advisory Council.

Sec. 10.002. *PURPOSE.* The council is created to provide the governor, lieutenant governor, speaker of the house of representatives, legislature, board, commission, political subdivisions, and public with the resource of a select council with expertise in water conservation.

Sec. 10.003. *CREATION AND MEMBERSHIP.* (a) The council is composed of 23 members appointed by the board. The board shall appoint one member to represent each of the following entities or interest groups:

- (1) Texas Commission on Environmental Quality;
- (2) Department of Agriculture;
- (3) Parks and Wildlife Department;
- (4) State Soil and Water Conservation Board;
- (5) Texas Water Development Board;
- (6) regional water planning groups;
- (7) federal agencies;
- (8) municipalities;
- (9) groundwater conservation districts;
- (10) river authorities;
- (11) environmental groups;
- (12) irrigation districts;
- (13) institutional water users;
- (14) professional organizations focused on water conservation;
- (15) higher education;
- (16) agricultural groups;
- (17) refining and chemical manufacturing;
- (18) electric generation;
- (19) mining and recovery of minerals;
- (20) landscape irrigation and horticulture;
- (21) water control and improvement districts;
- (22) rural water users; and
- (23) municipal utility districts.

(b) Each entity or interest group described by Subsection (a) may recommend one or more persons to fill the position on the council held by the member who represents that entity or interest group. If one or more persons are recommended for a position on the council, the board shall appoint one of the persons recommended to fill the position.

Sec. 10.004. *TERMS.* (a) Members of the council serve staggered terms of six years, with seven or eight members' terms, as applicable, expiring August 31 of each odd-numbered year.

(b) The board shall fill a vacancy on the council for the unexpired term by appointing a person who has the same qualifications as required under Section 10.003 for the person who previously held the vacated position.

Sec. 10.005. *PRESIDING OFFICER.* The council members shall select one member as the presiding officer of the council to serve in that capacity until the person's term as a council member expires.

Sec. 10.006. *COUNCIL STAFF.* On request by the council, the board shall provide any necessary staff to assist the council in the performance of its duties.

*Sec. 10.007. PUBLIC MEETINGS AND PUBLIC INFORMATION. (a) The council may hold public meetings as needed to fulfill its duties under this chapter.*

*(b) The council is subject to Chapters 551 and 552, Government Code.*

*Sec. 10.008. INAPPLICABILITY OF ADVISORY COMMITTEE LAW. Chapter 2110, Government Code, does not apply to the size, composition, or duration of the council.*

*Sec. 10.009. COMPENSATION OF MEMBERS. (a) Members of the council serve without compensation but may be reimbursed by legislative appropriation for actual and necessary expenses related to the performance of council duties.*

*(b) Reimbursement under Subsection (a) is subject to the approval of the presiding officer of the council.*

*Sec. 10.010. POWERS AND DUTIES OF COUNCIL. The council shall:*

- (1) monitor trends in water conservation implementation;*
- (2) monitor new technologies for possible inclusion by the board as best management practices in the best management practices guide developed by the water conservation implementation task force under Chapter 109, Acts of the 78th Legislature, Regular Session, 2003;*
- (3) monitor the effectiveness of the statewide water conservation public awareness program developed under Section 16.401 and associated local involvement in implementation of the program;*
- (4) develop and implement a state water management resource library;*
- (5) develop and implement a public recognition program for water conservation;*
- (6) monitor the implementation of water conservation strategies by water users included in regional water plans; and*
- (7) monitor target and goal guidelines for water conservation to be considered by the board and commission.*

*Sec. 10.011. REPORT. Not later than December 1 of each even-numbered year, the council shall submit to the governor, lieutenant governor, and speaker of the house of representatives a report on progress made in water conservation in this state.*

*Sec. 10.012. DESIGNATION OF CERTIFIED WATER CONSERVATION TRAINING FACILITIES STUDY. (a) The council shall conduct a study to evaluate the desirability of requiring the board to:*

- (1) designate as certified water conservation training facilities entities and programs that provide assistance to retail public utilities in developing water conservation plans under Section 13.146; and*
  - (2) give preference to certified water conservation training facilities in making loans or grants for water conservation training and education activities.*
- (b) Not later than December 1, 2008, the council shall submit a written report containing the findings of the study and the recommendations of the council to the governor, lieutenant governor, and speaker of the house of representatives.*
- (c) This section expires June 1, 2009.*

SECTION 4. Section 11.002, Water Code, is amended by adding Subdivision (15) to read as follows:

- (15) "Best management practices" means those voluntary efficiency measures developed by the commission and the board that save a quantifiable amount of water, either directly or indirectly, and that can be implemented within a specified time frame.*

SECTION 5. Section 11.0235(b), Water Code, is amended to read as follows:

*(b) Maintaining the biological soundness of the state's rivers, lakes, bays, and estuaries is of great importance to the public's economic health and general well-being. The legislature encourages voluntary water and land stewardship to benefit the water in the state, as defined by Section 26.001.*

SECTION 6. Subchapter E, Chapter 13, Water Code, is amended by adding Section 13.146 to read as follows:

*Sec. 13.146. WATER CONSERVATION PLAN. The commission shall require a retail public utility that provides potable water service to 3,300 or more connections to submit to the executive administrator of the board a water conservation plan based on specific targets and goals developed by the retail public utility and using appropriate best management practices, as defined by Section 11.002, or other water conservation strategies.*

SECTION 7. Section 15.102(b), Water Code, is amended to read as follows:

(b) The loan fund may also be used by the board to provide:

(1) grants or loans for projects that include supplying water and wastewater services in economically distressed areas or nonborder colonias as provided by legislative appropriations, this chapter, and board rules, including projects involving retail distribution of those services; and

(2) grants for:

(A) projects for which federal grant funds are placed in the loan fund;

(B) projects, on specific legislative appropriation for those projects; or

(C) *water conservation*, desalination, brush control, weather modification, regionalization, and projects providing regional water quality enhancement services as defined by board rule, including regional conveyance systems.

SECTION 8. Chapter 16, Water Code, is amended by adding Subchapter K to read as follows:

#### SUBCHAPTER K. WATER CONSERVATION

*Sec. 16.401. STATEWIDE WATER CONSERVATION PUBLIC AWARENESS PROGRAM. (a) The executive administrator shall develop and implement a statewide water conservation public awareness program to educate residents of this state about water conservation. The program shall take into account the differences in water conservation needs of various geographic regions of the state and shall be designed to complement and support existing local and regional water conservation programs.*

*(b) The executive administrator is required to develop and implement the program required by Subsection (a) in a state fiscal biennium only if the legislature appropriates sufficient money in that biennium specifically for that purpose.*

*Sec. 16.402. WATER CONSERVATION PLAN REVIEW. (a) Each entity that is required to submit a water conservation plan to the commission under this code shall submit a copy of the plan to the executive administrator.*

*(b) Each entity that is required to submit a water conservation plan to the executive administrator, board, or commission under this code shall report annually to the executive administrator on the entity's progress in implementing the plan.*

*(c) The executive administrator shall review each water conservation plan and annual report to determine compliance with the minimum requirements established by Section 11.1271 and the submission deadlines developed under Subsection (e) of this section.*

*(d) The board may notify the commission if the board determines that an entity has violated this section or a rule adopted under this section. Notwithstanding Section 7.051(b), a violation of this section or of a rule adopted under this section is enforceable in the manner provided by Chapter 7 for a violation of a provision of this code within the commission's jurisdiction or of a rule adopted by the commission under a provision of this code within the commission's jurisdiction.*

*(e) The board and commission jointly shall adopt rules:*

*(1) identifying the minimum requirements and submission deadlines for the annual reports required by Subsection (b); and*

*(2) providing for the enforcement of this section and rules adopted under this section.*

SECTION 9. Subchapter Z, Chapter 51, Education Code, is amended by adding Section 51.969 to read as follows:

*Sec. 51.969. ON-SITE RECLAIMED SYSTEM TECHNOLOGIES CURRICULUM. The Texas Higher Education Coordinating Board shall encourage each institution of higher education to develop curriculum and provide related instruction regarding on-site reclaimed system technologies, including rainwater harvesting, condensate collection, or cooling tower blow down.*

SECTION 10. Section 447.004, Government Code, is amended by adding Subsections (c-1) and (c-2) to read as follows:

*(c-1) The procedural standards adopted under this section must require that on-site reclaimed system technologies, including rainwater harvesting, condensate collection, or cooling tower blow down, or a combination of those system technologies, for nonpotable indoor use and landscape watering be incorporated into the design and construction of:*

- (1) each new state building with a roof measuring at least 10,000 square feet; and*
- (2) any other new state building for which the incorporation of such systems is feasible.*

*(c-2) The procedural standards required by Subsection (c-1) do not apply to a building if the state agency or institution of higher education constructing the building:*

- (1) determines that compliance with those standards is impractical; and*
- (2) notifies the state energy conservation office of the determination and provides to the office documentation supporting the determination.*

SECTION 11. Section 341.042, Health and Safety Code, is amended to read as follows:

*Sec. 341.042. STANDARDS FOR HARVESTED RAINWATER. (a) The commission shall establish recommended standards relating to the domestic use of harvested rainwater, including health and safety standards for treatment and collection methods for harvested rainwater intended for drinking, cooking, or bathing.*

*(b) The commission by rule shall provide that if a structure is connected to a public water supply system and has a rainwater harvesting system for indoor use:*

- (1) the structure must have appropriate cross-connection safeguards; and*
- (2) the rainwater harvesting system may be used only for nonpotable indoor purposes.*

*(c) Standards and rules adopted by the commission under this chapter governing public drinking water supply systems do not apply to a person:*

- (1) who harvests rainwater for domestic use; and*
- (2) whose property is not connected to a public drinking water supply system.*

SECTION 12. Chapter 401, Local Government Code, is amended by adding Section 401.006 to read as follows:

*Sec. 401.006. WATER CONSERVATION BY HOME-RULE MUNICIPALITY. A home-rule municipality may adopt and enforce ordinances requiring water conservation in the municipality and by customers of the municipality's municipally owned water and sewer utility in the extraterritorial jurisdiction of the municipality.*

SECTION 13. Section 1903.053, Occupations Code, is amended to read as follows:

*Sec. 1903.053. STANDARDS. (a) The commission shall adopt by rule and enforce standards governing:*

- (1) the connection of irrigation systems to any water supply;*
- (2) the design, installation, and operation of irrigation systems;*
- (3) water conservation; and*
- (4) the duties and responsibilities of licensed irrigators.*

*(b) ~~The commission may adopt standards for irrigation that include water conservation, irrigation system design and installation, and compliance with municipal codes.~~*

*[(e)] The commission may not require or prohibit the use of any irrigation system, component part, or equipment of any particular brand or manufacturer.*

*(c) In adopting standards under this section, the commission shall consult the council.*

SECTION 14. Section 151.355, Tax Code, is amended to read as follows:

Sec. 151.355. WATER-RELATED EXEMPTIONS. The following are exempted from taxes imposed by this chapter:

- (1) rainwater harvesting equipment or supplies, water recycling and reuse equipment or supplies, or other equipment, services, or supplies used solely to reduce or eliminate water use;
- (2) equipment, services, or supplies used solely for desalination of surface water or groundwater;
- (3) equipment, services, or supplies used solely for brush control designed to enhance the availability of water;
- (4) equipment, services, or supplies used solely for precipitation enhancement;
- (5) equipment, services, or supplies used solely to construct or operate a water or wastewater system certified by the Texas Commission on Environmental Quality as a regional system; ~~and~~
- (6) equipment, services, or supplies used solely to construct or operate a water supply or wastewater system by a private entity as a public-private partnership as certified by the political subdivision that is a party to the project; *and*
- (7) *tangible personal property specifically used to process, reuse, or recycle wastewater that will be used in fracturing work performed at an oil or gas well.*

SECTION 15. The change in law made by this Act to Section 151.355, Tax Code, does not affect taxes imposed before the effective date of this Act, and the law in effect before the effective date of this Act is continued in effect for purposes of the liability for and collection of those taxes.

SECTION 16. As soon as practicable on or after the effective date of this Act, the Texas Water Development Board shall appoint the initial members of the Water Conservation Advisory Council, as required by Section 10.003, Water Code, as added by this Act. In making the initial appointments, the board shall designate seven members to serve terms expiring August 31, 2009, eight members to serve terms expiring August 31, 2011, and eight members to serve terms expiring August 31, 2013.

SECTION 17. Section 15.102(b), Water Code, as amended by this Act, applies only to an application for financial assistance filed with the Texas Water Development Board on or after the effective date of this Act. An application for financial assistance filed before the effective date of this Act is governed by the law in effect on the date the application was filed, and the former law is continued in effect for that purpose.

SECTION 18. Not later than January 1, 2008, the Texas Water Development Board and the Texas Commission on Environmental Quality jointly shall adopt rules as required by Section 16.402(e), Water Code, as added by this Act.

SECTION 19. Not later than June 1, 2008, the Texas Commission on Environmental Quality shall adopt standards as required by Section 1903.053, Occupations Code, as amended by this Act, to take effect January 1, 2009.

SECTION 20. (a) Except as provided by Subsection (b) of this section, this Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2007.

(b) Section 10 of this Act takes effect September 1, 2009.

Passed by the House on May 1, 2007: Yeas 130, Nays 1, 1 present, not voting; the House refused to concur in Senate amendments to H.B. No. 4 on May 25, 2007, and requested the appointment of a conference committee to consider the differences between the two houses; the House adopted the conference committee report on H.B. No. 4 on May 27, 2007: Yeas 144, Nays 1, 2 present, not voting; passed by the Senate, with amendments, on May 23, 2007: Yeas 30, Nays 0; at the request of the House, the Senate appointed a conference committee to consider the differences between the two houses; the Senate adopted the conference committee report on H.B. No. 4 on May 28, 2007: Yeas 30, Nays 0.

Approved June 15, 2007.

Effective September 1, 2007, except as provided in § 20(b).

## CHAPTER 1353

### H.B. No. 109

#### AN ACT

relating to eligibility for and information regarding the child health plan program.

*Be it enacted by the Legislature of the State of Texas:*

SECTION 1. Section 62.002(4), Health and Safety Code, is amended to read as follows:

(4) “Net ~~[Gross]~~ family income” means the ~~[total]~~ amount of income established for a family after reduction for offsets for child care expenses, in accordance with standards applicable under the Medicaid ~~[without consideration of any reduction for offsets that may be available to the family under any other]~~ program.

SECTION 2. Subchapter B, Chapter 62, Health and Safety Code, is amended by adding Section 62.056 to read as follows:

*Sec. 62.056. COMMUNITY OUTREACH CAMPAIGN; TOLL-FREE HOTLINE. (a) The commission shall conduct a community outreach and education campaign to provide information relating to the availability of health benefits for children under this chapter. The commission shall conduct the campaign in a manner that promotes enrollment in, and minimizes duplication of effort among, all state-administered child health programs.*

*(b) The community outreach campaign must include:*

- (1) outreach efforts that involve school-based health clinics;*
- (2) a toll-free telephone number through which families may obtain information about health benefits coverage for children; and*
- (3) information regarding the importance of each conservator of a child promptly informing the other conservator of the child about the child's health benefits coverage.*

*(c) The commission shall contract with community-based organizations or coalitions of community-based organizations to implement the community outreach campaign and shall also promote and encourage voluntary efforts to implement the community outreach campaign. The commission shall procure the contracts through a process designed by the commission to encourage broad participation of organizations, including organizations that target population groups with high levels of uninsured children.*

*(d) The commission may direct that the Department of State Health Services perform all or part of the community outreach campaign.*

*(e) The commission shall ensure that information provided under this section is available in both English and Spanish.*

SECTION 3. Section 62.101, Health and Safety Code, is amended by amending Subsection (b) and adding Subsection (b-1) to read as follows:

(b) The commission shall establish income eligibility levels consistent with Title XXI, Social Security Act (42 U.S.C. Section 1397aa et seq.), as amended, and any other applicable law or regulations, and subject to the availability of appropriated money, so that a child who is younger than 19 years of age and whose *net [gross]* family income is at or below 200 percent of the federal poverty level is eligible for health benefits coverage under the program. In addition, the commission may establish eligibility standards regarding the amount and types of allowable assets for a family whose *net [gross]* family income is above 150 percent of the federal poverty level.

*(b-1) The eligibility standards adopted under Subsection (b) related to allowable assets:*

- (1) must allow a family to own at least \$10,000 in allowable assets; and*